

REMARKS/ARGUMENTS

This application has been reviewed in light of the Office Action mailed on July 22, 2009. Claims 1-5 and 9-12 are pending in the application with Claims 1 and 9 being in independent form. By the present amendment, Claims 1 and 9 have been amended. Claims 6-8 have been previously cancelled.

Applicants respectfully disagree with the Examiner's statements that the specification does not have subject matter supporting the claim amendments, now cancelled, previously added to independent Claims 1 and 9. Support for the amendments can be found throughout Applicants' specification, such as at paragraphs [0016], [0024], [0028], [0030], and [0036]. No new matter or issues are believed to be introduced by the amendments. However, in an effort to expedite prosecution, several of these claim amendments have been herein removed from independent Claims 1 and 9.

Presumably Claims 1-5 and 9-12 were rejected under 35 U.S.C. §112, first paragraph. Claims 1 and 9 have been amended in a manner which is believed to overcome the rejection. Withdrawal of the rejection is respectfully requested in view of the following remarks.

It is believed that removing the phrase "transmitting ... second power control commands derived from the non-predetermined data values via a transmitter means" from Claims 1 and 9 does not render Claims 1-5 and 9-12 unpatentable with respect to any prior art previously used by the Examiner.

For instance, in the present disclosure, as presented in the Claims as originally filed and as evidenced throughout the specification, **pilot data** (or pilot symbols) **are not used** in downlink symbols. In fact, the Claims of the present disclosure specifically teach away from such feature. At paragraph [0016], of the present disclosure, it is stated that "downlink closed

loop power control may be operated by measuring the quality of received downlink non-predetermined data **instead of predetermined pilot symbols.**” (emphasis added) Furthermore, at paragraph [0024], of the present disclosure, it is stated that “**pilot symbols** for each active mobile station **are not necessary.**” (emphasis added) Moreover, FIG. 3 of the present disclosure specifically shows only non-predetermined data values being sent between a mobile station and a base station. Clearly, the exemplary embodiments of the present disclosure are **not** concerned with pilot data, but only with non-predetermined data. It appears that none of the prior art previously cited by the Examiner disclose and/or suggest such feature(s). Thus, the removal of the phrase “transmitting ... second power control commands derived from the non-predetermined data values via a transmitter means” from Claims 1 and 9 does not affect the patentability of Claims 1-5 and 9-12.

Accordingly, the withdrawal of the rejection under §112, first paragraph with respect to Claims 1-5 and 9-12 and allowance thereof are respectfully requested.

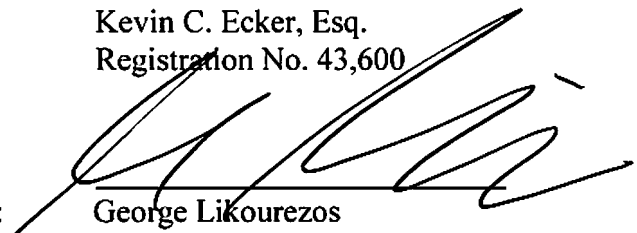
In view of the foregoing amendments and remarks, it is respectfully submitted that all Claims presently pending in the application, namely, Claims 1-5 and 9-12, are believed to be in condition for allowance.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to contact the undersigned.

Respectfully submitted,

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